

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY SEPTEMBER 2, 2015

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE MAY 12, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 209

Introduced by Senator Pavley

February 11, 2015

An act to amend Sections 607, 2207, 2714, ~~2733~~, 2770, 2772, ~~2773.1~~, and ~~2774~~, ~~2774.1~~, ~~2774.4~~, and ~~2776~~ of, and to add Sections ~~2006.5~~, ~~2736~~, ~~2772.1~~, ~~2006.5~~ and ~~2773.4~~ ~~2773.1.5~~ to, the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 209, as amended, Pavley. Surface mining: inspections: financial assurances: reclamation plans.

(1) Existing law establishes the Office of Mine Reclamation within the Department of Conservation. Existing law requires the State Mining and Geology Board to impose, by regulation, an annual reporting fee on the operators of all active and idle mining operations. Existing law requires the maximum amount of the annual fee imposed on each mining operation to not exceed \$4,000. Existing law limits the maximum amount of the total revenue generated from the reporting fee to no more than \$3,500,000, as specified.

This bill would instead establish the Division of Mines within the department under the direction of the Supervisor of Mines and Reclamation. The bill also would raise the maximum amount of the annual reporting fee to \$10,000 per mining operation, except as specified. The bill would raise the maximum amount of the total revenue generated from the reporting fee to \$8,000,000, as specified.

(2) The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation.

This bill would revise and recast provisions of the act related to the approval of reclamation plans and, among other things, would require a reclamation plan filed by an operator of a surface mining operation with a lead agency to include specified reclamation maps; ~~require a lead agency, when submitting a proposed final reclamation plan to the Director of Conservation, to incorporate specified items of information and documents in the submitted reclamation plan within certain timeframes; and require the director to take certain actions upon receiving a proposed final reclamation plan.~~ *maps and would require a borrow pit operated by a lead agency to include a specified interim management plan.* By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.

~~This bill also would require a lead agency or the board to conduct a specified public hearing if the lead agency has evidence that an operator is financially incapable of performing reclamation in accordance with its approved reclamation plan or that the operator has abandoned a surface mining operation without completing reclamation and to take appropriate actions to seize the operator's financial assurances.~~

This bill would revise and recast provisions of the act related to the proof of financial assurances, ~~as defined;~~ and, among other things, would require an operator to establish an appropriate financial assurance mechanism within 30 days of a sale or transfer of a surface mining operation; ~~require a lead agency to submit a surface mining operation's proposed financial assurance cost estimate with a specified report to the director for review, as specified; and require the director to take certain actions upon receiving a financial assurance cost estimate from a lead agency.~~ By adding to the duties of a local government acting as

~~a lead agency under the act, this bill would impose a state-mandated local program. allow an operator, after the board has adopted a specified regulation, to include in a financial assurance mechanism a corporate financial test, as described.~~

~~This bill would require the Department of Conservation and the board, in consultation with the Board for Professional Engineers, Land Surveyors, and Geologists, to adopt regulations that set forth the minimum qualifications for a person conducting an inspection of a surface mining operation, as specified. The bill also would authorize a lead agency to cause an inspection to be conducted by an unlicensed employee who meets specified criteria; impose new requirements on the lead agency relating to the timing of inspections; and require the department to establish, no later than July 1, December 31, 2016, a training program for all surface mine inspectors, as specified. By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would make its operation contingent on the enactment of Assembly Bill 1142 of the 2015–16 Regular Session.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 607 of the Public Resources Code is
2 amended to read:
3 607. The work of the department shall be divided into at least
4 the following:
5 (a) California Geological Survey.
6 (b) Division of Oil, Gas, and Geothermal Resources.
7 (c) Division of Land Resource Protection.
8 (d) Division of Mines.
9 SEC. 2. Section 2006.5 is added to the Public Resources Code,
10 to read:

1 2006.5. “Supervisor of Mines and Reclamation” means the
2 individual directing the Division of Mines established pursuant to
3 subdivision (d) of Section 607.

4 SEC. 3. Section 2207 of the Public Resources Code is amended
5 to read:

6 2207. (a) The owner or the operator of a mining operation
7 within the state shall forward to the director annually, not later
8 than a date established by the director, upon forms approved by
9 the board from time to time, a report that identifies all of the
10 following:

11 (1) The name, address, and telephone number of the person,
12 company, or other owner of the mining operation.

13 (2) The name, address, and telephone number of a designated
14 agent who resides in this state, and who will receive and accept
15 service of all orders, notices, and processes of the lead agency,
16 board, director, or court.

17 (3) The location of the mining operation, its name, its mine
18 number as issued by the Division of Mines or the director, its
19 section, township, range, latitude, longitude, and approximate
20 boundaries of the mining operation marked on a United States
21 Geological Survey 7½-minute or 15-minute quadrangle map.

22 (4) The lead agency.

23 (5) The approval date of the mining operation’s reclamation
24 plan.

25 (6) The mining operation’s status as active, idle, reclaimed, or
26 in the process of being reclaimed.

27 (7) The commodities produced by the mine and the type of
28 mining operation.

29 ~~(8) Proof of annual inspection—A copy of the previously~~
30 ~~completed annual inspection form and a requested date, within 12~~
31 ~~months of the prior inspection date, for the next annual inspection~~
32 ~~by the lead agency.~~

33 ~~(9) Proof of the most recently approved financial cost estimate~~
34 ~~and the approved financial assurance cost mechanism. financial~~
35 ~~assurances.~~

36 (10) Ownership of the property, including government agencies,
37 if applicable, by the assessor’s parcel number, and total assessed
38 value of the mining operation.

39 (11) The approximate permitted size of the mining operation
40 subject to Chapter 9 (commencing with Section 2710), in acres.

1 (12) The approximate total acreage of land newly disturbed by
2 the mining operation during the previous calendar year.

3 (13) The approximate total of disturbed acreage reclaimed during
4 the previous calendar year.

5 (14) The approximate total unreclaimed disturbed acreage
6 remaining as of the end of the calendar year.

7 (15) The total production for each mineral commodity produced
8 during the previous year.

9 (16) A copy of any approved reclamation plan and any
10 amendments or conditions of approval to any existing reclamation
11 plan approved by the lead agency.

12 (b) (1) Every year, not later than the date established by the
13 director, the person submitting the report pursuant to subdivision
14 (a) shall forward to the lead agency, upon forms furnished by the
15 board, a report that provides all of the information specified in
16 subdivision (a).

17 (2) The owner or operator of a mining operation shall allow
18 access to the property to any governmental agency or the agent of
19 any company providing financial assurances in connection with
20 the reclamation plan in order that the reclamation can be carried
21 out by the entity or company, in accordance with the provisions
22 of the reclamation plan.

23 (c) Subsequent reports shall include only changes in the
24 information submitted for the items described in subdivision (a),
25 except that, instead of the approved reclamation plan, the reports
26 shall include any reclamation plan amendments approved during
27 the previous year. The reports shall state whether review of a
28 reclamation plan, financial assurances, or an interim management
29 plan is pending under subdivision ~~(b) or~~ (h) of Section 2770, or
30 whether an appeal before the board or lead agency governing body
31 is pending under subdivision (e) or (h) of Section 2770. The
32 director shall notify the person submitting the report and the
33 owner's designated agent in writing that the report and the fee
34 required pursuant to subdivision (d) have been received, specify
35 the mining operation's mine number if one has not been issued by
36 the Division of Mines, and notify the person and agent of any
37 deficiencies in the report within 90 days of receipt. That person
38 or agent shall have 30 days from receipt of the notification to
39 correct the noted deficiencies and forward the revised report to the
40 director and the lead agency. Any person who fails to comply with

1 this section, or knowingly provides incorrect or false information
2 in reports required by this section, may be subject to an
3 administrative penalty as provided in subdivision (c) of Section
4 2774.1.

5 (d) (1) The board shall impose, by regulation, pursuant to
6 paragraph (2), an annual reporting fee on, and method for collecting
7 annual fees from, each active or idle mining operation. The
8 maximum fee for any single mining operation may not exceed ten
9 thousand dollars (\$10,000) annually and may not be less than one
10 hundred dollars (\$100) annually, as adjusted for the cost of living
11 as measured by the California Consumer Price Index for all urban
12 consumers, calendar year averages, using the percentage change
13 in the previous year, except that the maximum fee for any single
14 mining operation shall not exceed six thousand dollars (\$6,000)
15 in the 2016–17 fiscal year and eight thousand dollars (\$8,000) in
16 the 2017–18 fiscal year.

17 (2) (A) The board shall adopt, by regulation, a schedule of fees
18 authorized under paragraph (1) to cover the department's cost in
19 carrying out this section and Chapter 9 (commencing with Section
20 2710), as reflected in the Governor's proposed Budget, and may
21 adopt those regulations as emergency regulations. In establishing
22 the schedule of fees to be paid by each active and idle mining
23 operation, the fees shall be calculated on an equitable basis
24 reflecting the size and type of operation. The board shall also
25 consider the total assessed value of the mining operation, the
26 acreage disturbed by mining activities, and the acreage subject to
27 the reclamation plan.

28 (B) Regulations adopted pursuant to this subdivision shall be
29 adopted by the board in accordance with the Administrative
30 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
31 Part 1 of Division 3 of Title 2 of the Government Code). The
32 adoption of any emergency regulations pursuant to this subdivision
33 shall be considered necessary to address an emergency and shall
34 be considered by the Office of Administrative Law to be necessary
35 for the immediate preservation of the public peace, health, safety,
36 and general welfare.

37 (3) The total revenue generated by the reporting fees may not
38 exceed, and may be less than, the amount of eight million dollars
39 (\$8,000,000), as adjusted for the cost of living as measured by the
40 California Consumer Price Index for all urban consumers, calendar

year averages, using the percentage change in the previous year, beginning with the 2016–17 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 ½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New

1 mining operations that have not submitted a report shall submit a
2 report prior to commencement of operations. The new operation
3 shall submit its fee according to the reasonable fee schedule
4 adopted by the board, and the month that the report is received
5 shall become that operation's anniversary month.

6 (e) The lead agency, or the board when acting as the lead agency,
7 may impose a fee upon each mining operation to cover the
8 reasonable costs incurred in implementing this chapter and Chapter
9 9 (commencing with Section 2710).

10 (f) For purposes of this section, "mining operation" means a
11 mining operation of any kind or character whatever in this state,
12 including, but not limited to, a mining operation that is classified
13 as a "surface mining operation" as defined in Section 2735, unless
14 excepted by Section 2714. For the purposes of fee collections only,
15 "mining operation" may include one or more mines operated by
16 a single operator or mining company on one or more sites, if the
17 total annual combined mineral production for all sites is less than
18 100 troy ounces for precious metals, if precious metals are the
19 primary mineral commodity produced, or less than 100,000 short
20 tons if the primary mineral commodity produced is not precious
21 metals.

22 (g) Any information in reports submitted pursuant to subdivision
23 (a) that includes or otherwise indicates the total mineral production,
24 reserves, or rate of depletion of any mining operation may not be
25 disclosed to any member of the public, as defined in subdivision
26 (b) of Section 6252 of the Government Code. Other portions of
27 the reports are public records unless excepted by statute. Statistical
28 bulletins based on these reports and published under Section 2205
29 shall be compiled to show, for the state as a whole and separately
30 for each lead agency, the total of each mineral produced therein.
31 In order not to disclose the production, reserves, or rate of depletion
32 from any identifiable mining operation, no production figure shall
33 be published or otherwise disclosed unless that figure is the
34 aggregated production of not less than three mining operations. If
35 the production figure for any lead agency would disclose the
36 production, reserves, or rate of depletion of less than three mining
37 operations or otherwise permit the reasonable inference of the
38 production, reserves, or rate of depletion of any identifiable mining
39 operation, that figure shall be combined with the same figure of
40 not less than two other lead agencies without regard to the location

1 of the lead agencies. The bulletin shall be published annually by
2 June 30 or as soon thereafter as practicable.

3 (h) The approval of a form by the board pursuant to this section
4 is not the adoption of a regulation for purposes of the
5 Administrative Procedure Act (Chapter 3.5 (commencing with
6 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
7 Code) and is not subject to that act.

8 SEC. 4. Section 2714 of the Public Resources Code is amended
9 to read:

10 2714. This chapter does not apply to any of the following
11 activities:

12 (a) Excavations or grading of lands conducted for farming.

13 (b) Onsite excavation and onsite earthmoving activities that are
14 integral and necessary for the construction of structures and that
15 are undertaken to prepare a site for the construction of those
16 structures, including landscaping or other land improvements
17 associated with those structures, including the related excavation,
18 grading, compaction, or the creation of fills, road cuts, and
19 embankments, whether or not surplus materials are exported from
20 the site, subject to all of the following conditions:

21 (1) All required permits for the construction and any associated
22 landscaping or related land improvements have been approved by
23 a public agency in accordance with applicable provisions of state
24 law and locally adopted plans and ordinances, including, but not
25 limited to, the California Environmental Quality Act (Division 13
26 (commencing with Section 21000)).

27 (2) The lead agency's approval of the construction project
28 included consideration of the onsite excavation and onsite
29 earthmoving activities pursuant to the California Environmental
30 Quality Act (Division 13 (commencing with Section 21000)).

31 (3) The approved construction project is consistent with the
32 general plan or zoning of the site.

33 (4) Surplus materials shall not be exported from the site unless
34 and until actual construction work has commenced and shall cease
35 if it is determined that construction activities have terminated, have
36 been indefinitely suspended, or are no longer being actively
37 pursued.

38 (c) Operation of a plant site used for mineral processing,
39 including associated onsite structures, equipment, machines, tools,
40 or other materials, including the onsite stockpiling and onsite

1 recovery of mined materials, subject to all of the following
2 conditions:

3 (1) The plant site is located on lands designated for industrial
4 or commercial uses in the applicable county or city general plan.

5 (2) The plant site is located on lands zoned industrial or
6 commercial or are contained within a zoning category intended
7 exclusively for industrial activities by the applicable city or county.

8 (3) None of the minerals being processed are being extracted
9 onsite.

10 (4) All reclamation work has been completed pursuant to the
11 approved reclamation plan for any mineral extraction activities
12 that occurred onsite after January 1, 1976.

13 (d) Prospecting for or the extraction of minerals for commercial
14 purposes where the removal of overburden or mineral product
15 totals less than 1,000 cubic yards in any one location and the total
16 surface area disturbed is less than one acre.

17 (e) Surface mining operations that are required by federal law
18 in order to protect a mining claim, if those operations are conducted
19 solely for that purpose.

20 (f) Any other surface mining operations that the board
21 determines to be of an infrequent nature and that involve only
22 minor surface disturbances.

23 (g) The solar evaporation of sea water or bay water for the
24 production of salt and related minerals.

25 (h) Emergency excavations or grading conducted by the
26 Department of Water Resources or the Central Valley Flood
27 Protection Board for the purpose of averting, alleviating, repairing,
28 or restoring damage to property due to imminent or recent floods,
29 disasters, or other emergencies.

30 (i) (1) Surface mining operations conducted on lands owned
31 or leased, or upon which easements or rights-of-way have been
32 obtained, by the Department of Water Resources for the purpose
33 of the State Water Resources Development System or flood control,
34 and surface mining operations on lands owned or leased, or upon
35 which easements or rights-of-way have been obtained, by the
36 Central Valley Flood Protection Board for the purpose of flood
37 control, if the Department of Water Resources adopts, after
38 submission to and consultation with, the department, a reclamation
39 plan for lands affected by these activities, and those lands are
40 reclaimed in conformance with the standards specified in

1 regulations of the board adopted pursuant to this chapter. The
2 Department of Water Resources shall provide an annual report to
3 the department by the date specified by the department on these
4 mining activities.

5 (2) Nothing in this subdivision shall require the Department of
6 Water Resources or the Central Valley Flood Protection Board to
7 obtain a permit or secure approval of a reclamation plan from any
8 city or county in order to conduct surface mining operations
9 specified in paragraph (1). Nothing in this subdivision shall
10 preclude the bringing of an enforcement action pursuant to Section
11 2774.1, if it is determined that a surface mine operator, acting
12 under contract with the Department of Water Resources or the
13 Central Valley Flood Protection Board on lands other than those
14 owned or leased, or upon which easements or rights-of-way have
15 been obtained, by the Department of Water Resources or the
16 Central Valley Flood Protection Board, is otherwise not in
17 compliance with this chapter.

18 (j) (1) Excavations or grading for the exclusive purpose of
19 obtaining materials for roadbed construction and maintenance
20 conducted in connection with timber operations or forest
21 management on land owned by the same person or entity. This
22 exemption is limited to excavation and grading that is conducted
23 adjacent to timber operation or forest management roads and shall
24 not apply to onsite excavation or grading that occurs within 100
25 feet of a Class One watercourse or 75 feet of a Class Two
26 watercourse, or to excavation for materials that are, or have been,
27 sold for commercial purposes.

28 (2) This exemption shall be available only if slope stability and
29 erosion are controlled in accordance with subdivision (f) of Section
30 3704 and subdivision (d) of Section 3706 of Title 14 of the
31 California Code of Regulations and, upon closure of the site, the
32 person closing the site implements, where necessary, revegetation
33 measures and postclosure uses in consultation with the Department
34 of Forestry and Fire Protection.

35 (k) Excavations, grading, or other earthmoving activities in an
36 oil or gas field that are integral to and necessary for ongoing
37 operations for the extraction of oil or gas that comply with all of
38 the following conditions:

39 (1) The operations are being conducted in accordance with
40 Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

(l) (1) The immediate excavation or grading of lands affected by a natural disaster for the purpose of restoring those lands to their prior condition.

(2) The immediate removal of material deposited by a flood onto lands being farmed for the purpose of restoring those lands to their prior condition.

SEC. 5. ~~Section 2733 of the Public Resources Code is amended to read:~~

~~2733. “Reclamation” means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition that is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, slope stabilization, or other measures.~~

SEC. 6. ~~Section 2736 is added to the Public Resources Code, to read:~~

~~2736. “Financial assurance” means an approved current financial assurance cost estimate and a financial assurance mechanism that is at least equal to the current approved financial assurance cost estimate.~~

SEC. 7. ~~Section 2770 of the Public Resources Code is amended to read:~~

~~2770. (a) Except as provided in this section, a person shall not conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation pursuant to this article.~~

~~(b) A person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan~~

1 application is not on file by March 31, 1988, the continuation of
2 the surface mining operation is prohibited until a reclamation plan
3 is submitted to the lead agency.

4 (e) [Reserved]

5 (d) [Reserved]

6 (e) A person who, based on the evidence of the record, can
7 substantiate that a lead agency has either (1) failed to act according
8 to due process or has relied on considerations not related to the
9 specific applicable requirements of Sections 2772, 2773, and
10 2773.1, and the lead agency surface mining ordinance adopted
11 pursuant to subdivision (a) of Section 2774, in reaching a decision
12 to deny approval of a reclamation plan or financial assurances for
13 reclamation, or (2) failed to act within a reasonable time of receipt
14 of a completed application, may appeal that action or inaction to
15 the board.

16 (f) The board may decline to hear an appeal if it determines that
17 the appeal raises no substantial issues related to the lead agency's
18 review pursuant to this section.

19 (g) Appeals that the board does not decline to hear shall be
20 scheduled and heard at a public hearing within 45 days of the filing
21 of the appeal or a longer period as may be mutually agreed upon
22 by the board and the person filing the appeal. In hearing an appeal,
23 the board shall only determine whether the reclamation plan or the
24 financial assurances meet the applicable requirements of Sections
25 2772, 2773, and 2773.1 and the lead agency surface mining
26 ordinance adopted pursuant to subdivision (a) of Section 2774. A
27 reclamation plan or financial assurances determined to meet these
28 requirements shall be approved. A reclamation plan or financial
29 assurances determined not to meet these requirements shall be
30 returned to the person filing the appeal with a notice of deficiencies,
31 who shall be granted once only a period of 30 days, or a longer
32 period mutually agreed upon by the operator and the board, to
33 correct the noted deficiencies and submit the revised reclamation
34 plan or the revised financial assurances to the lead agency for
35 review and approval.

36 (h) (1) Within 90 days of a surface mining operation becoming
37 idle, as defined in Section 2727.1, the operator shall submit to the
38 lead agency for review and approval an interim management plan.
39 The review and approval of an interim management plan shall not
40 be considered a project for purposes of the California

1 Environmental Quality Act (Division 13 (commencing with Section
2 21000)). The approved interim management plan shall be
3 considered an amendment to the surface mining operation's
4 approved reclamation plan for purposes of this chapter. The interim
5 management plan shall provide measures the operator will
6 implement to maintain the site in compliance with this chapter,
7 including, but not limited to, all permit conditions.

8 (2) Except for an interim management plan for a borrow pit
9 surface mining operation owned or operated by the lead agency
10 solely for use by the lead agency an interim management plan may
11 remain in effect for a period not to exceed five years, at which
12 time the lead agency shall do one of the following:

13 (A) Renew the interim management plan for an additional period
14 not to exceed five years, which may be renewed for one additional
15 five-year renewal period at the expiration of the first five-year
16 renewal period, if the lead agency finds that the surface mining
17 operator has complied fully with the interim management plan.

18 (B) Require the operator to commence reclamation in accordance
19 with its approved reclamation plan.

20 (3) The financial assurances required by Section 2773.1 shall
21 remain in effect during the period that the surface mining operation
22 is idle. If the surface mining operation is still idle after the
23 expiration of its interim management plan, the surface mining
24 operation shall commence reclamation in accordance with its
25 approved reclamation plan.

26 (4) Within 60 days of the receipt of the interim management
27 plan or a longer period mutually agreed upon by the lead agency
28 and the operator, the lead agency shall review and approve the
29 plan in accordance with its ordinance adopted pursuant to
30 subdivision (a) of Section 2774, so long as the plan satisfies the
31 requirements of this subdivision, and so notify the operator in
32 writing. Otherwise, the lead agency shall notify the operator in
33 writing of any deficiencies in the plan. The operator shall have 30
34 days, or a longer period mutually agreed upon by the operator and
35 the lead agency, to submit a revised plan.

36 (5) The lead agency shall approve or deny approval of the
37 revised interim management plan within 60 days of receipt. If the
38 lead agency denies approval of the revised interim management
39 plan, the operator may appeal that action to the lead agency's
40 governing body, which shall schedule a public hearing within 45

1 days of the filing of the appeal or a longer period mutually agreed
2 upon by the operator and the governing body.

3 ~~(6) Unless review of an interim management plan is pending~~
4 ~~before the lead agency or an appeal is pending before the lead~~
5 ~~agency's governing body, a surface mining operation that remains~~
6 ~~idle for over one year after becoming idle, as defined in Section~~
7 ~~2727.1, without obtaining approval of an interim management plan~~
8 ~~shall be considered abandoned and the operator shall commence~~
9 ~~and complete reclamation in accordance with the approved~~
10 ~~reclamation plan.~~

11 ~~(i) An enforcement action that may be brought against a surface~~
12 ~~mining operation for operating without an approved reclamation~~
13 ~~plan, financial assurance, or interim management plan shall be~~
14 ~~held in abeyance pending review pursuant to subdivision (b) or~~
15 ~~(h), or the resolution of an appeal filed with the board pursuant to~~
16 ~~subdivision (e), or with a lead agency governing body pursuant to~~
17 ~~subdivision (h).~~

18 ~~(j) Notwithstanding paragraph (1) of subdivision (b) of Section~~
19 ~~2774, a lead agency may conduct an inspection of a borrow pit~~
20 ~~surface mining operation owned or operated by the lead agency~~
21 ~~solely for use by the lead agency once every two calendar years~~
22 ~~during a period when the borrow pit surface mining operation is~~
23 ~~idle.~~

24 ~~SEC. 8. Section 2772 of the Public Resources Code is amended~~
25 ~~to read:~~

26 ~~2772. (a) The reclamation plan shall be filed with the lead~~
27 ~~agency, on a form provided by the lead agency, by any person who~~
28 ~~owns, leases, or otherwise controls or operates on all or any portion~~
29 ~~of any mined lands and who plans to conduct surface mining~~
30 ~~operations on the lands.~~

31 ~~(b) In addition to the other requirements for a reclamation plan,~~
32 ~~a reclamation plan for a borrow pit surface mining operation owned~~
33 ~~or operated by the lead agency solely for use by the lead agency~~
34 ~~shall include an interim management plan that shall maintain the~~
35 ~~site in compliance with this chapter during a period when the~~
36 ~~borrow pit surface mining operation is idle.~~

37 ~~(c) The reclamation plan shall include all of the following~~
38 ~~information and documents:~~

1 ~~(1) The name and address of the surface mining operator and~~
2 ~~the names and addresses of any persons designated by the operator~~
3 ~~as an agent for the service of process.~~

4 ~~(2) The anticipated quantity and type of minerals for which the~~
5 ~~surface mining operation is to be conducted.~~

6 ~~(3) The proposed dates for the initiation of mining operations~~
7 ~~and the completion of mining and reclamation of the surface mining~~
8 ~~operation.~~

9 ~~(4) The maximum anticipated depth of the surface mining~~
10 ~~operation.~~

11 ~~(5) A reclamation plan map or maps that shall include all of the~~
12 ~~following:~~

13 ~~(A) Size and legal description of the lands that will be affected~~
14 ~~by the surface mining operation and the names and addresses of~~
15 ~~the owners of all surface interests and mineral interests in the lands.~~

16 ~~(B) Clearly defined and accurately drawn property lines,~~
17 ~~setbacks, easements, and the reclamation plan boundary.~~

18 ~~(C) Existing topography and final topography depicted with~~
19 ~~contour lines drawn at appropriate intervals for the site's~~
20 ~~conditions.~~

21 ~~(D) Detailed geologic description of the area of the surface~~
22 ~~mining operation.~~

23 ~~(E) Location of railroads, utility facilities, access roads,~~
24 ~~temporary roads to be reclaimed, and any roads remaining for the~~
25 ~~approved end use.~~

26 ~~(F) All maps, diagrams, or calculations that require preparation~~
27 ~~in accordance with the Professional Engineers Act (Chapter 7~~
28 ~~(commencing with Section 6700) of Division 3 of the Business~~
29 ~~and Professions Code), the Geologist and Geophysicist Act~~
30 ~~(Chapter 12.5 (commencing with Section 7800) of Division 3 of~~
31 ~~the Business and Professions Code), or the Professional Land~~
32 ~~Surveyors' Act (Chapter 15 (commencing with Section 8700) of~~
33 ~~Division 3 of the Business and Professions Code) shall be prepared~~
34 ~~by an appropriately licensed California-licensed professional, shall~~
35 ~~include his or her license number and name, and shall bear the~~
36 ~~signature and seal of the licensee.~~

37 ~~(6) A description of and a plan for the type of surface mining~~
38 ~~to be employed and a time schedule that will provide for the~~
39 ~~completion of surface mining on each segment of the mined lands~~
40 ~~so that reclamation can be initiated at the earliest possible time on~~

1 those portions of the mined lands that will not be subject to further
2 disturbance by the surface mining operation.

3 ~~(7) A description of the proposed use or potential uses of the~~
4 ~~mined lands after reclamation and evidence that all owners of a~~
5 ~~possessory interest in the land have been notified of the proposed~~
6 ~~use or potential uses.~~

7 ~~(8) A description of the manner in which reclamation, adequate~~
8 ~~for the proposed use or potential uses, will be accomplished,~~
9 ~~including both of the following:~~

10 ~~(A) A description of the manner in which known contaminants~~
11 ~~will be controlled and mining waste will be disposed.~~

12 ~~(B) A description of the manner in which affected streambed~~
13 ~~channels and streambanks will be rehabilitated to a condition that~~
14 ~~minimizes erosion and sedimentation.~~

15 ~~(9) An assessment of the effect of implementation of the~~
16 ~~reclamation plan on future mining in the area.~~

17 ~~(10) A statement that the person submitting the reclamation~~
18 ~~plan accepts responsibility for reclaiming the mined lands in~~
19 ~~accordance with the reclamation plan.~~

20 ~~(11) Any other information that the lead agency may require~~
21 ~~by ordinance.~~

22 ~~(d) An item of information or a document required pursuant to~~
23 ~~this chapter, including subdivision (c), that has already been~~
24 ~~prepared as part of a permit application for the surface mining~~
25 ~~operation, or as part of an environmental document prepared for~~
26 ~~the project pursuant to the California Environmental Quality Act~~
27 ~~(Division 13 (commencing with Section 21000)), or required as a~~
28 ~~condition of approval, shall be included in the reclamation plan.~~
29 ~~Regulatory aspects that are solely of a local concern shall not be~~
30 ~~included in the reclamation plan. To the extent the information or~~
31 ~~document referenced in the reclamation plan is used to meet the~~
32 ~~requirements of this chapter, including subdivision (c), the~~
33 ~~information or document shall become part of the reclamation plan~~
34 ~~and shall be subject to all other requirements of this chapter.~~

35 ~~(e) This section does not limit or expand the Supervisor of Mines~~
36 ~~and Reclamation's authority or responsibility to review a document~~
37 ~~in accordance with the California Environmental Quality Act~~
38 ~~(Division 13 (commencing with Section 21000)).~~

39 ~~SEC. 9. Section 2772.1 is added to the Public Resources Code,~~
40 ~~to read:~~

1 ~~2772.1. (a) (1) Prior to approving a surface mining operation's~~
2 ~~reclamation plan or plan amendments, the lead agency shall submit~~
3 ~~the proposed final reclamation plan or amendments to the director~~
4 ~~for review. All documentation for the submission shall be submitted~~
5 ~~to the director at one time.~~

6 ~~(2) An item of information or a document required pursuant to~~
7 ~~this chapter, including subdivision (c) of Section 2772, that has~~
8 ~~been prepared as part of a permit application for the surface mining~~
9 ~~operation, not including aspects that are solely of a local concern,~~
10 ~~or as part of an environmental document prepared for the project~~
11 ~~pursuant to the California Environmental Quality Act (Division~~
12 ~~13 (commencing with Section 21000)) shall be incorporated into~~
13 ~~the proposed final reclamation plan. An item of information or a~~
14 ~~document that is incorporated shall be inserted into the~~
15 ~~corresponding section of the proposed final reclamation plan or~~
16 ~~attached to the proposed final reclamation plan with a specific~~
17 ~~reference in the corresponding section of the proposed final~~
18 ~~reclamation plan. Any information or document incorporated into~~
19 ~~the proposed final reclamation plan shall become part of the~~
20 ~~approved reclamation plan and shall be subject to all other~~
21 ~~requirements of this article.~~

22 ~~(3) The lead agency shall certify to the director that the proposed~~
23 ~~final reclamation plan is a complete submission and is in~~
24 ~~compliance with all of the following:~~

25 ~~(A) The applicable requirements of this chapter, including~~
26 ~~subdivision (c) of Section 2772.~~

27 ~~(B) Article 1 (commencing with Section 3500) of Chapter 8 of~~
28 ~~Division 2 of Title 14 of the California Code of Regulations.~~

29 ~~(C) The lead agency's surface mining ordinance in effect at the~~
30 ~~time that the proposed final reclamation plan is submitted to the~~
31 ~~director for review.~~

32 ~~(b) (1) The director shall have 30 days from the date of receipt~~
33 ~~of a proposed final reclamation plan or plan amendments submitted~~
34 ~~pursuant to subdivision (a) to prepare written comments if the~~
35 ~~director chooses.~~

36 ~~(2) If the director determines that the lead agency's submission~~
37 ~~pursuant to subdivision (a) is incomplete or that the submission~~
38 ~~includes maps, diagrams, or calculations that require preparation~~
39 ~~by an appropriately licensed California-licensed professional, the~~
40 ~~director shall return the submission to the lead agency. The director~~

1 shall identify the incomplete components or those maps, diagrams,
2 or calculations that require completion by an appropriately licensed
3 California-licensed professional. The review by the director
4 pursuant to paragraph (1) shall not begin until the director receives
5 a complete submission, including maps, diagrams, or calculations
6 prepared by an appropriately licensed California-licensed
7 professional.

8 (3) (A) The lead agency shall review and evaluate and prepare
9 a written response to the director's comments received pursuant
10 to paragraph (1) describing the disposition of the major issues
11 raised by the comments. The lead agency shall submit the lead
12 agency's response to the director at least 30 days prior to the
13 intended approval of the proposed final reclamation plan or plan
14 amendment. The lead agency's response shall include either of the
15 following:

16 (i) A description of how the lead agency proposes to adopt the
17 director's comments to the proposed final reclamation plan or plan
18 amendment.

19 (ii) A detailed description of the reasons why the lead agency
20 proposes not to adopt the director's comments.

21 (B) Copies of any written comments received and responses
22 prepared by the lead agency pursuant to subparagraph (A) shall
23 be forwarded to the operator.

24 (C) (i) The lead agency shall give the director at least 30 days'
25 notice of the time, place, and date of the hearing at which the
26 proposed final reclamation plan or plan amendment is scheduled
27 to be approved by the lead agency.

28 (ii) If no hearing is required by this chapter, the local ordinance,
29 or other state law, the lead agency shall provide 30 days' notice
30 to the director that the lead agency intends to approve the proposed
31 final reclamation plan or plan amendment.

32 (D) Within 30 days following approval of the reclamation plan,
33 the lead agency shall provide the director notice of the approval
34 and a statement that identifies any additional conditions or other
35 permit requirements imposed upon the surface mining operation.
36 During that time, the department shall retain all of its powers,
37 duties, and authorities pursuant to this chapter. The lead agency
38 shall provide, as soon as practicable, but no later than 60 days after
39 approval of the reclamation plan, both of the following:

1 ~~(i) Certified copies of all maps, diagrams, or calculations signed~~
2 ~~and sealed by an appropriately licensed California-licensed~~
3 ~~professional.~~

4 ~~(ii) A certified copy of the approved reclamation plan~~
5 ~~incorporating all approved modifications to the proposed final~~
6 ~~reclamation plan.~~

7 ~~(4) To the extent there is a conflict between the comments of a~~
8 ~~trustee agency or a responsible agency that are based on that~~
9 ~~agency's statutory or regulatory authority and the comments of~~
10 ~~other commenting agencies that are received by the lead agency~~
11 ~~pursuant to the California Environmental Quality Act (Division~~
12 ~~13 (commencing with Section 21000)) regarding a reclamation~~
13 ~~plan or plan amendments, the lead agency shall consider only the~~
14 ~~comments of the trustee agency or responsible agency.~~

15 ~~(e) A lead agency shall notify the director of the filing of an~~
16 ~~application for a permit to conduct surface mining operations~~
17 ~~within 30 days of an application being filed with the lead agency.~~
18 ~~By July 1, 1991, each lead agency shall submit to the director for~~
19 ~~every active or idle mining operation within its jurisdiction, a copy~~
20 ~~of the mining permit required pursuant to Section 2774, and any~~
21 ~~conditions or amendments to those permits. By July 1 of each~~
22 ~~subsequent year, the lead agency shall submit to the director for~~
23 ~~each active or idle mining operation a copy of any permit or~~
24 ~~reclamation plan amendments, as applicable, or a statement that~~
25 ~~there have been no changes during the previous year. Failure to~~
26 ~~file with the director the information required pursuant to this~~
27 ~~section shall be a cause for action under Section 2774.4.~~

28 ~~(d) This section does not limit or expand the Supervisor of Mines~~
29 ~~and Reclamation's authority or responsibility to review a document~~
30 ~~in accordance with the California Environmental Quality Act~~
31 ~~(Division 13 (commencing with Section 21000)).~~

32 ~~SEC. 10. Section 2773.1 of the Public Resources Code is~~
33 ~~amended to read:~~

34 ~~2773.1. (a) Lead agencies shall require financial assurances~~
35 ~~of each surface mining operation to ensure reclamation is~~
36 ~~performed in accordance with the surface mining operation's~~
37 ~~approved reclamation plan, as follows:~~

38 ~~(1) Financial assurance mechanisms may take the form of surety~~
39 ~~bonds executed by an admitted surety insurer, as defined in~~
40 ~~subdivision (a) of Section 995.120 of the Code of Civil Procedure,~~

1 irrevocable letters of credit, trust funds, or other forms of financial
2 assurances specified by the board pursuant to subdivision (c) that
3 are at least equal to the annual financial assurance cost estimate
4 that the lead agency reasonably determines are adequate to perform
5 reclamation in accordance with the surface mining operation's
6 approved reclamation plan.

7 (2) ~~The financial assurances shall remain in effect for the~~
8 ~~duration of the surface mining operation and any additional period~~
9 ~~until reclamation is completed.~~

10 (3) ~~The amount of financial assurances required of a surface~~
11 ~~mining operation for any one year shall be adjusted annually to~~
12 ~~account for new lands disturbed by surface mining operations,~~
13 ~~inflation, and reclamation of lands accomplished in accordance~~
14 ~~with the approved reclamation plan.~~

15 (4) ~~Each financial assurance mechanism shall be made payable~~
16 ~~to the lead agency and the department. A financial assurance~~
17 ~~mechanism shall not be released without the written consent of~~
18 ~~the lead agency and the department. Financial assurance~~
19 ~~mechanisms that were approved by the lead agency prior to January~~
20 ~~1, 1993, and were made payable to the State Geologist shall be~~
21 ~~considered payable to the department for purposes of this chapter.~~
22 ~~However, if a surface mining operation has received approval of~~
23 ~~its financial assurances from a public agency other than the lead~~
24 ~~agency, the lead agency shall deem those financial assurances~~
25 ~~adequate for purposes of this section, or shall credit them toward~~
26 ~~fulfillment of the financial assurances required by this section, if~~
27 ~~they are made payable to the public agency, the lead agency, and~~
28 ~~the department and otherwise meet the requirements of this section.~~
29 ~~In any event, if a lead agency and one or more public agencies~~
30 ~~exercise jurisdiction over a surface mining operation, the total~~
31 ~~amount of financial assurances required by the lead agency and~~
32 ~~the public agencies for any one year shall not exceed that amount~~
33 ~~which is necessary to perform reclamation of lands remaining~~
34 ~~disturbed. For purposes of this paragraph, a "public agency" may~~
35 ~~include a federal agency.~~

36 (b) (1) ~~If the lead agency has evidence that an operator is~~
37 ~~financially incapable of performing reclamation in accordance~~
38 ~~with its approved reclamation land or that the operator has~~
39 ~~abandoned the surface mining operation without completing~~
40 ~~reclamation, the lead agency or the board shall conduct a public~~

1 hearing with notice of the hearing provided to the operator and the
2 department at least 30 days prior to the hearing.

3 (2) If the lead agency or the board, following the public hearing,
4 determines that the operator is financially incapable of performing
5 reclamation in accordance with its approved reclamation plan, or
6 has abandoned its surface mining operation without completing
7 reclamation, either the lead agency or the director shall do all of
8 the following:

9 (A) Notify the operator by personal service or certified mail
10 that the lead agency or the director intends to take appropriate
11 action to seize the financial assurances and specify the reasons for
12 so doing.

13 (B) (i) Proceed to take appropriate action to seize the financial
14 assurances and use the proceeds from the financial assurances to
15 conduct and complete reclamation in accordance with the approved
16 reclamation plan.

17 (ii) If the surface mining operation cannot be reclaimed in
18 accordance with its approved reclamation plan or the financial
19 assurances are inadequate to reclaim in accordance with the
20 approved reclamation plan, the lead agency or the director may
21 use the proceeds of the financial assurances to reclaim or remediate
22 mining disturbances as appropriate for the site conditions, as
23 determined by the lead agency and the director. The proceeds of
24 the financial assurances shall not be used for any other purpose.

25 (iii) The operator is responsible for the costs of conducting and
26 completing reclamation in accordance with the approved
27 reclamation plan or a remediation plan developed pursuant to this
28 section, as determined to be appropriate by the lead agency and
29 director, that are in excess of the proceeds of the financial
30 assurances.

31 (c) Financial assurances shall no longer be required of a surface
32 mining operation, and shall be released, upon written concurrence
33 by the lead agency and the director, which shall be forwarded to
34 the operator, that reclamation has been completed in accordance
35 with the approved reclamation plan. If a surface mining operation
36 is sold or ownership is transferred to another person, the existing
37 financial assurances shall remain in force and shall not be released
38 by the lead agency and the director until new financial assurances
39 are secured from the new owner and have been approved by the
40 lead agency in accordance with Sections 2770 and 2773.1. Within

1 30 days of the sale or transfer of the surface mining operation, the
2 new operator shall establish an appropriate financial assurance
3 mechanism and sign a new statement pursuant to paragraph (10)
4 of subdivision (c) of Section 2772.

5 (d) The lead agency shall have primary responsibility to seize
6 financial assurances and to reclaim mine sites under subdivision
7 (b). However, in cases where the board is not the lead agency
8 pursuant to Section 2774.4, the director may act to seize financial
9 assurances and reclaim mine sites pursuant to subdivision (b) only
10 if both of the following occur:

11 (1) The financial incapability of the operator or the abandonment
12 of the mining operation has come to the attention of the director.

13 (2) The lead agency has been notified in writing by the director
14 of the financial incapability of the operator or the abandonment
15 of the mining operation for at least 15 days, the lead agency has
16 not taken appropriate measures to seize the financial assurances
17 and reclaim the mine site, and one of the following has occurred:

18 (A) The lead agency has been notified in writing by the director
19 that failure to take appropriate measures to seize the financial
20 assurances or to reclaim the mine site shall result in actions being
21 taken against the lead agency under Section 2774.4.

22 (B) The director determines that there is a violation that amounts
23 to an imminent and substantial endangerment to the public health,
24 safety, or to the environment.

25 (C) The lead agency notifies the director in writing that its good
26 faith attempts to seize the financial assurances have not been
27 successful.

28 The director shall comply with subdivision (b) in seizing the
29 financial assurances and reclaiming mine sites.

30 (e) The board may adopt regulations specifying financial
31 assurance mechanisms other than surety bonds, irrevocable letters
32 of credit, and trust funds that the board determines are reasonably
33 available and adequate to ensure reclamation pursuant to this
34 chapter, but these mechanisms shall not include solely financial
35 tests or surety bonds executed by one or more personal sureties.
36 These mechanisms may include reclamation bond pool programs
37 or corporate financial tests, as described in subdivision (f);
38 combined with additional financial assurance mechanisms, as
39 identified in this section, that together ensure the completion of
40 reclamation in accordance with the approved reclamation plan.

~~(f) (1) Corporate financial tests shall provide for no more than 75 percent of the financial assurance cost estimate approved within the last year. Use of a financial test shall meet all of the following requirements:~~

~~(A) Be annually approved by both the lead agency and the director and may be disallowed by either the lead agency or the director.~~

~~(B) Include an assessment from an independent certified public accountant using generally accepted accounting principles in the United States.~~

~~(2) Corporate financial tests shall only be allowed after the board adopts a regulation that establishes a comprehensive analysis of a corporation's financial status that includes financial net worth; income; liabilities, including other environmental assurances; and assets located within the United States. The regulation shall include additional measures to provide the lead agency or the director with the recovery of costs associated with the full collection and satisfaction of the financial assurance mechanisms.~~

~~(3) A surface mining operation shall have at least 25 percent of the financial assurance cost estimate or four million dollars (\$4,000,000), whichever is greater, in an acceptable financial assurance mechanism other than a corporate financial test.~~

~~(4) Subject to the requirements of this subdivision, an operator of multiple surface mining operations may use a corporate financial test that combines the financial assurance cost estimates of each surface mining operation.~~

~~(g) On or before March 1, 1993, the board shall adopt guidelines to implement this section. The guidelines are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and are not subject to review by the Office of Administrative Law.~~

~~SEC. 11. Section 2773.4 is added to the Public Resources Code, to read:~~

~~2773.4. (a) (1) Prior to approving the financial assurances of a surface mining operation pursuant to Sections 2770 and 2773.1, the lead agency shall submit the proposed financial assurance cost estimate, with a statement that it is adequate to reclaim the surface mining operation in accordance with the approved reclamation plan, to the director for review. All documentation for that~~

1 submission shall be complete and submitted to the director at one
2 time:

3 (2) If the director determines that the lead agency's submission
4 pursuant to paragraph (1) is incomplete, the director shall return
5 the submission to the lead agency, specifically noting those
6 elements of the cost estimate that are incomplete. The review by
7 the director pursuant to subdivision (b) shall not begin until the
8 director receives a complete submission:

9 (b) The director shall have 45 days from the date of receipt of
10 a complete financial assurance cost estimate pursuant to subdivision
11 (a) to prepare written comments or request a reassessment if the
12 director chooses:

13 (c) (1) (A) If the director can demonstrate that the proposed
14 financial assurance cost estimate is inadequate to reclaim the
15 surface mining operation in accordance with the approved
16 reclamation plan, the director may request a reassessment by the
17 lead agency:

18 (B) If the director requests a reassessment of a financial
19 assurance cost estimate, the lead agency shall reassess and resubmit
20 the proposed financial assurance cost estimate within 45 days of
21 the director's request:

22 (2) If the lead agency or operator disagrees with the director's
23 request for reassessment, or the director determines that a financial
24 assurance cost estimate resubmitted pursuant to this subdivision
25 remains inadequate, the lead agency, operator, or director may
26 request a review hearing by the board:

27 (3) Financial assurance cost estimates shall not be approved
28 pending the director's request for reassessment pursuant to this
29 subdivision:

30 (4) Financial assurance cost estimates determined to be
31 inadequate by the board shall be returned to the lead agency for
32 reassessment and resubmission to the director pursuant to this
33 section. Financial assurance cost estimates determined to be
34 adequate by the board may be approved by the lead agency:

35 (d) (1) The lead agency shall prepare a written response to the
36 director's comments, if any, describing the disposition of the major
37 issues raised by the director's comments. The lead agency shall
38 submit its proposed response to the director at least 30 days prior
39 to approval of the financial assurance cost estimate and shall
40 include either of the following:

1 (A) A description of how the lead agency proposes to adopt the
2 director's comments to the financial assurance cost estimate.

3 (B) A detailed description of the reasons why the lead agency
4 proposes not to adopt the director's comments.

5 (2) Copies of any written comments received and responses
6 prepared by the lead agency pursuant to paragraph (1) shall be
7 provided to the operator.

8 (3) (A) The lead agency shall give the director at least 30 days'
9 notice of the time, place, and date of the hearing at which the
10 financial assurance cost estimate is scheduled to be approved by
11 the lead agency.

12 (B) If no hearing is required by this chapter, the local ordinance,
13 or other state law, then the lead agency shall provide 30 days'
14 notice to the director that it intends to approve the financial
15 assurance cost estimate.

16 (4) The lead agency shall send to the director its final response
17 to the director's comments within 30 days of its approval of the
18 financial assurance cost estimate during which time the department
19 retains all of its powers, duties, and authorities pursuant to this
20 chapter.

21 (e) (1) Within 30 days of the lead agency's approval of the
22 financial assurance cost estimate, the operator shall provide the
23 lead agency and the director an appropriate financial assurance
24 mechanism that is at least equal to the approved financial assurance
25 cost estimate.

26 (2) Within 15 days of receipt of a financial assurance
27 mechanism, the lead agency and the director shall review the
28 financial assurance mechanism to determine if the type of
29 mechanism, including release instructions, complies with the
30 requirements of this chapter.

31 (3) Financial assurance mechanisms determined to be
32 noncompliant with this chapter shall be returned to the operator,
33 with instructions on how to correct the type or release instructions
34 of the financial assurance mechanism.

35 (f) To the extent there is a conflict between the comments of a
36 trustee agency or a responsible agency that are based on that
37 agency's statutory or regulatory authority and the comments of
38 other commenting agencies that are received by the lead agency
39 pursuant to the California Environmental Quality Act (Division
40 13 (commencing with Section 21000)) regarding a financial

1 assurance cost estimate or financial assurance mechanism, the lead
2 agency shall consider only the comments of the trustee agency or
3 responsible agency.

4 ~~(g) The review of existing financial assurances shall not be~~
5 ~~considered a project for the purposes of the California~~
6 ~~Environmental Quality Act (Division 13 (commencing with Section~~
7 ~~21000)).~~

8 SEC. 12. ~~Section 2774 of the Public Resources Code is~~
9 ~~amended to read:~~

10 ~~2774. (a) Every lead agency shall adopt ordinances in~~
11 ~~accordance with state policy that establish procedures for the~~
12 ~~review and approval of reclamation plans and financial assurances~~
13 ~~and the issuance of a permit to conduct surface mining operations;~~
14 ~~except that any lead agency without an active surface mining~~
15 ~~operation in its jurisdiction may defer adopting an implementing~~
16 ~~ordinance until the filing of a permit application. The ordinances~~
17 ~~shall establish procedures requiring at least one public hearing and~~
18 ~~shall be periodically reviewed by the lead agency and revised, as~~
19 ~~necessary, to ensure that the ordinances continue to be in~~
20 ~~accordance with state policy.~~

21 ~~(b) (1) (A) The lead agency shall conduct an inspection of a~~
22 ~~surface mining operation within six months of receipt by the lead~~
23 ~~agency of the surface mining operation's report submitted pursuant~~
24 ~~to Section 2207, solely to determine whether the surface mining~~
25 ~~operation is in compliance with this chapter.~~

26 ~~(B) A lead agency shall not inspect a surface mining operation~~
27 ~~less than once in any calendar year. The lead agency shall cause~~
28 ~~an inspection to be conducted by an individual who is qualified~~
29 ~~pursuant to paragraph (2) and who satisfies the provisions of~~
30 ~~subdivision (e), including, but not limited to, a state-licensed~~
31 ~~geologist, state-licensed civil engineer, state-licensed landscape~~
32 ~~architect, state-licensed forester, or lead agency employee who~~
33 ~~has not been employed by the surface mining operation within the~~
34 ~~jurisdiction of the lead agency in any capacity during the previous~~
35 ~~12 months.~~

36 ~~(C) Notwithstanding subparagraph (B), a lead agency employee~~
37 ~~who is qualified pursuant to paragraph (2) and who satisfies the~~
38 ~~provisions of subdivision (e) may inspect a surface mining~~
39 ~~operation owned or operated by the lead agency.~~

1 ~~(D) All inspections shall be conducted using a form developed~~
2 ~~by the department and approved by the board that includes the~~
3 ~~relevant professional licensing and disciplinary information of the~~
4 ~~person qualified pursuant to paragraph (2) who conducted the~~
5 ~~inspection. The operator shall be solely responsible for the~~
6 ~~reasonable cost of the inspection.~~

7 ~~(E) The lead agency shall notify the director within 60 days of~~
8 ~~the date of completion of the inspection that the inspection has~~
9 ~~been conducted. The inspection notice shall contain a statement~~
10 ~~regarding the surface mining operation's compliance with this~~
11 ~~chapter, shall include a copy of the completed inspection form,~~
12 ~~and shall specify which aspects of the surface mining operations,~~
13 ~~if any, are inconsistent with this chapter and those noncompliant~~
14 ~~aspects that have been corrected following the inspection, with~~
15 ~~proof of correction. For each remaining noncompliant aspect, the~~
16 ~~lead agency shall provide to the director a copy of the notice of~~
17 ~~violation, the notice of violation combined with an order to comply~~
18 ~~pursuant to Section 2774.1, or a statement that indicates the lead~~
19 ~~agency does not intend to initiate an enforcement action pursuant~~
20 ~~to Section 2774.1. If the surface mining operation has a review of~~
21 ~~its reclamation plan, financial assurances, or an interim~~
22 ~~management plan pending under subdivision (b) or (h) of Section~~
23 ~~2770, or an appeal pending before the board or lead agency~~
24 ~~governing body under subdivision (c) or (h) of Section 2770, the~~
25 ~~inspection notice shall so indicate. The lead agency shall forward~~
26 ~~to the operator a copy of the inspection notice, a copy of the~~
27 ~~completed inspection form, and any supporting documentation,~~
28 ~~including, but not limited to, any inspection report prepared by the~~
29 ~~individual qualified pursuant to paragraph (2).~~

30 ~~(2) (A) The department and the board, in consultation with the~~
31 ~~Board for Professional Engineers, Land Surveyors, and Geologists,~~
32 ~~shall adopt regulations that set forth the minimum qualifications~~
33 ~~for a person conducting an inspection of a surface mining operation~~
34 ~~pursuant to this chapter. The regulations shall delineate those~~
35 ~~aspects of an inspection that require the inspector to meet state~~
36 ~~licensure requirements.~~

37 ~~(B) Beginning January 1 of the year following adoption of the~~
38 ~~regulations required pursuant to subparagraph (A), but not less~~
39 ~~than 180 days after adoption, all surface mine inspections shall be~~
40 ~~performed by a qualified individual.~~

1 ~~(e) (1) On or before July 1, 2016, the department shall establish~~
2 ~~a training program for all surface mine inspectors. The program~~
3 ~~shall be designed to include a guidance document, developed by~~
4 ~~the department and approved by the board, to provide instruction~~
5 ~~and recommendations to surface mine inspectors performing~~
6 ~~inspections pursuant to subdivision (b).~~

7 ~~(2) The training program shall include no less than four~~
8 ~~inspection workshops per year, offered by the department, in~~
9 ~~different regions of the state, to provide practical application of~~
10 ~~the guidance document material.~~

11 ~~(3) On and after January 1, 2019, all inspectors shall have on~~
12 ~~file with the lead agency and the department a certificate of~~
13 ~~completion of an inspection workshop. An inspector shall attend~~
14 ~~a workshop no later than five years after the date of his or her most~~
15 ~~recent certificate.~~

16 ~~(d) In addition to subdivision (b), lead agencies or the Supervisor~~
17 ~~of Mines and Reclamation may inspect at any time a surface mining~~
18 ~~operation to determine if the operation is in compliance with this~~
19 ~~chapter and Section 2207.~~

20 ~~(e) The approval of the guidance document by the board~~
21 ~~pursuant to subdivision (c) is not the adoption of a regulation for~~
22 ~~the purposes of the Administrative Procedure Act (Chapter 3.5~~
23 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
24 ~~2 of the Government Code) and is not subject to that chapter.~~

25 ~~SEC. 13. Section 2774.1 of the Public Resources Code is~~
26 ~~amended to read:~~

27 ~~2774.1. (a) Except as provided in subdivision (i) of Section~~
28 ~~2770, if the lead agency or the director determines, based upon an~~
29 ~~annual inspection pursuant to Section 2774, or otherwise confirmed~~
30 ~~by an inspection of the mining operation, that a surface mining~~
31 ~~operation is not in compliance with this chapter, the lead agency~~
32 ~~or the director may notify the operator of that violation by personal~~
33 ~~service or certified mail. If the lead agency or the director~~
34 ~~determines that the noted violations cannot be corrected within 30~~
35 ~~days of the notice, the lead agency shall or the director may~~
36 ~~combine the notice of violation with an order to comply. If the~~
37 ~~violation extends beyond 30 days after the date of the lead agency's~~
38 ~~or the director's notification, the lead agency or the director may~~
39 ~~issue an order by personal service or certified mail requiring the~~
40 ~~operator to comply with this chapter or, if the operator does not~~

1 have an approved reclamation plan or financial assurances, cease
2 all further mining activities.

3 ~~(b) An order to comply issued under subdivision (a) shall take~~
4 ~~effect 30 days following service unless the operator within that~~
5 ~~30-day period requests a hearing before the lead agency for orders~~
6 ~~issued by the lead agency, or the board for orders issued by the~~
7 ~~director, concerning the alleged violation. An order to comply~~
8 ~~shall specify which aspects of the surface mine's activities or~~
9 ~~operations are inconsistent with this chapter, shall specify a time~~
10 ~~for compliance that the lead agency or director determines is~~
11 ~~reasonable, not to exceed two years, taking into account the~~
12 ~~seriousness of the violation and any good faith efforts to comply~~
13 ~~with applicable requirements, and may include an administrative~~
14 ~~penalty imposed pursuant to subdivision (c). If a lead agency or~~
15 ~~the director determines compliance with an order to comply will~~
16 ~~exceed two years, the board may specify a longer period based on~~
17 ~~an application and showing of good cause.~~

18 ~~(c) (1) In an order to comply pursuant to subdivision (b), the~~
19 ~~lead agency or the director may impose an administrative penalty~~
20 ~~of not more than five thousand dollars (\$5,000) per day, assessed~~
21 ~~from the original date of noncompliance with this chapter. The~~
22 ~~penalty may be imposed administratively by the lead agency or~~
23 ~~the director. In determining the amount of the administrative~~
24 ~~penalty, the lead agency or the director shall take into consideration~~
25 ~~the nature, circumstances, extent, and gravity of the violation or~~
26 ~~violations, any prior history of violations, the degree of culpability,~~
27 ~~economic savings, if any, resulting from the violation, and any~~
28 ~~other matters justice may require.~~

29 ~~(2) If an operator fails to comply with an order to comply that~~
30 ~~did not originally impose an administrative penalty, or if an~~
31 ~~operator fails to submit a report or pay annual fees to the director~~
32 ~~or lead agency pursuant to Section 2207, the lead agency or director~~
33 ~~may impose an administrative penalty pursuant to this paragraph.~~
34 ~~The administrative penalty shall become effective upon issuance~~
35 ~~of the assessment and payment shall be made to the lead agency~~
36 ~~or the director within 30 days, unless the operator petitions the~~
37 ~~legislative body of the lead agency, the board, or the superior court~~
38 ~~for review as provided in Section 2774.2. An assessment shall be~~
39 ~~served by personal service or by certified mail upon the operator.~~

1 ~~(3) Penalties collected by the director shall not be used for~~
2 ~~purposes other than to cover the reasonable costs incurred by the~~
3 ~~director in implementing this chapter or Section 2207.~~

4 ~~(d) If the lead agency or the director determines that the surface~~
5 ~~mine is not in compliance with this chapter, so that the surface~~
6 ~~mine presents an imminent and substantial endangerment to the~~
7 ~~public health or the environment, the lead agency or the Attorney~~
8 ~~General, on behalf of the director, may seek an order from a court~~
9 ~~of competent jurisdiction enjoining that operation.~~

10 ~~(e) Upon a complaint by the director, the department, or the~~
11 ~~board, the Attorney General may bring an action to recover~~
12 ~~administrative penalties under this section, and penalties under~~
13 ~~Section 2207, in any court of competent jurisdiction in this state~~
14 ~~against any person violating any provision of this chapter or Section~~
15 ~~2207, or any regulation adopted pursuant to this chapter or Section~~
16 ~~2207. The Attorney General may bring this action on his or her~~
17 ~~own initiative if, after examining the complaint and the evidence,~~
18 ~~he or she believes a violation has occurred. The Attorney General~~
19 ~~may also seek an order from a court of competent jurisdiction~~
20 ~~compelling the operator to comply with this chapter and Section~~
21 ~~2207.~~

22 ~~(f) (1) The lead agency has primary responsibility for enforcing~~
23 ~~this chapter and Section 2207. In cases where the board is not the~~
24 ~~lead agency pursuant to Section 2774.4, enforcement actions may~~
25 ~~be initiated by the director pursuant to this section only after the~~
26 ~~violation has come to the attention of the director and either of the~~
27 ~~following occurs:~~

28 ~~(A) The lead agency has been notified by the director in writing~~
29 ~~of the violation for at least 30 days, and has not taken appropriate~~
30 ~~enforcement action, which may include failing to issue an order~~
31 ~~to comply within a reasonable time after issuing a notice of~~
32 ~~violation.~~

33 ~~(B) The director determines that there is a violation that amounts~~
34 ~~to an imminent and substantial endangerment to the public health~~
35 ~~or safety, or to the environment.~~

36 ~~(2) The director shall comply with this section in initiating~~
37 ~~enforcement actions.~~

38 ~~(g) Remedies under this section are in addition to, and do not~~
39 ~~supersede or limit, any and all other remedies, civil or criminal.~~

1 SEC. 14. ~~Section 2774.4 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~2774.4. (a) The board shall exercise some or all of a lead~~
4 ~~agency's powers under this chapter pursuant to subdivision (c),~~
5 ~~except for permitting authority and vested rights determinations~~
6 ~~pursuant to Section 2776, if the board finds that a lead agency has~~
7 ~~done any of the following:~~

8 ~~(1) Approved reclamation plans or financial assurances that are~~
9 ~~not consistent with this chapter.~~

10 ~~(2) Failed to inspect or cause the inspection of surface mining~~
11 ~~operations as required by this chapter.~~

12 ~~(3) Failed to seize the financial assurances and to carry out the~~
13 ~~reclamation of surface mining operations as required by this~~
14 ~~chapter.~~

15 ~~(4) Failed to take appropriate enforcement actions as required~~
16 ~~by this chapter.~~

17 ~~(5) Intentionally misrepresented the results of inspections~~
18 ~~required under this chapter.~~

19 ~~(6) Failed to submit information to the department as required~~
20 ~~by this chapter.~~

21 ~~(b) The board shall conduct a public hearing no sooner than~~
22 ~~three years after the board has taken action pursuant to subdivision~~
23 ~~(a) to determine if a lead agency has corrected its deficiencies in~~
24 ~~implementing and enforcing this chapter and the rules and~~
25 ~~regulations adopted pursuant to this chapter or has developed a~~
26 ~~program that will adequately administer this chapter and Section~~
27 ~~2207. If the board finds sufficient evidence of correction or the~~
28 ~~development of a program to adequately implement this chapter~~
29 ~~and Section 2207, the board shall restore to the lead agency some~~
30 ~~or all of the powers assumed by the board pursuant to subdivision~~
31 ~~(a).~~

32 ~~(c) Before taking any action pursuant to subdivision (a), the~~
33 ~~board shall first conduct a hearing, providing 30 days' notice to~~
34 ~~the lead agency, and shall determine if the lead agency has engaged~~
35 ~~in conduct described in subdivision (a). If the board finds that the~~
36 ~~lead agency has engaged in conduct described in subdivision (a),~~
37 ~~the board shall do either of the following:~~

38 ~~(1) (A) Require the lead agency to develop a remedial plan to~~
39 ~~correct the noted deficiencies. The remedial plan shall describe~~
40 ~~specific objectives and corresponding processes designed to~~

1 address, at a minimum, the noted deficiencies and a time that the
2 remedial plan will be fully implemented.

3 (B) The board shall set a hearing to review the completion of
4 the remedial plan consistent with paragraph (2) and subdivisions
5 (d) and (e).

6 (2) Take immediate action pursuant to subdivision (a) and hold
7 a public hearing within the lead agency's area of jurisdiction, upon
8 a 45-day written notice given to the public in at least one newspaper
9 of general circulation within the city or county and directly mailed
10 to the lead agency and to all operators within the lead agency's
11 jurisdiction who have submitted reports as required by Section
12 2207.

13 (d) Affected operators and interested persons have the right at
14 the public hearing to present oral and written evidence on the
15 matter being considered. The board, at the public hearing, may
16 place reasonable limits on the right of affected operators and
17 interested persons to question and solicit testimony.

18 (e) (1) If the board decides to take action pursuant to subdivision
19 (a) and exercise some or all of a lead agency's powers pursuant to
20 this chapter, except for permitting authority and vested rights
21 determinations pursuant to Section 2776, the board shall, based
22 on the record of the public hearing, adopt written findings that
23 explain all of the following:

24 (A) The action to be taken by the board.

25 (B) Why the board decided to take the action.

26 (C) Why the action is authorized by and meets the requirements
27 of subdivision (a).

28 (2) In addition, the findings shall address the significant issues
29 raised or written evidence presented by affected operators,
30 interested persons, the lead agency, or the department and findings
31 from any review of the lead agency's administrative and
32 enforcement program. The transcript of testimony and exhibits,
33 together with all papers and requests filed in the proceedings, shall
34 constitute the exclusive record for decision by the board.

35 (f) If the board finds that the lead agency has not satisfactorily
36 completed the remedial plan prepared pursuant to paragraph (1)
37 of subdivision (c), the board shall follow the procedures set forth
38 in paragraph (2) of subdivision (c) and subdivisions (d) and (e).

39 (g) The lead agency, any affected operator, or any interested
40 person who has presented oral or written evidence at the public

1 hearing before the board pursuant to subdivision (d) may obtain a
2 review of the board's action taken pursuant to subdivision (a) by
3 filing in the superior court a petition for a writ of mandate within
4 30 days following the issuance of the board's decision. Section
5 1094.5 of the Code of Civil Procedure governs judicial proceedings
6 pursuant to this subdivision, except that in every case the court
7 shall exercise its independent judgment. If a petition for a writ of
8 mandate is not filed within the time limits set by this subdivision;
9 the board's action under subdivision (a) shall not be subject to
10 review by any court or agency.

11 SEC. 15. ~~Section 2776 of the Public Resources Code is~~
12 ~~amended to read:~~

13 ~~2776. (a) (1) A person who has obtained a vested right to~~
14 ~~conduct surface mining operations prior to January 1, 1976, shall~~
15 ~~not be required to secure a permit pursuant to this chapter as long~~
16 ~~as the vested right continues and as long as no substantial changes~~
17 ~~are made in the operation except in accordance with this chapter.~~
18 ~~A person shall be deemed to have vested rights if, prior to January~~
19 ~~1, 1976, the person has, in good faith and in reliance upon a permit~~
20 ~~or other authorization, if the permit or other authorization was~~
21 ~~required, diligently commenced surface mining operations and~~
22 ~~incurred substantial liabilities for work and materials necessary~~
23 ~~for the surface mining operations. Expenses incurred in obtaining~~
24 ~~the enactment of an ordinance in relation to a particular operation~~
25 ~~or the issuance of a permit shall not be deemed liabilities for work~~
26 ~~or materials.~~

27 ~~(2) A lead agency shall maintain records associated with a vested~~
28 ~~right determination.~~

29 ~~(b) The reclamation plan required to be filed pursuant to~~
30 ~~subdivision (b) of Section 2770 shall apply to operations conducted~~
31 ~~after January 1, 1976, or to be conducted.~~

32 ~~(c) Nothing in this chapter shall be construed as requiring the~~
33 ~~filing of a reclamation plan for or the reclamation of mined lands~~
34 ~~on which surface mining operations were conducted prior to~~
35 ~~January 1, 1976.~~

36 SEC. 5. *Section 2770 of the Public Resources Code is amended*
37 *to read:*

38 2770. (a) Except as provided in this section, a person shall not
39 conduct surface mining operations unless a permit is obtained
40 from, a reclamation plan has been submitted to and approved by,

1 and financial assurances for reclamation have been approved by,
2 by the lead agency for the operation pursuant to this article.

3 (b) A person with an existing surface mining operation who has
4 vested rights pursuant to Section 2776 and who does not have an
5 approved reclamation plan shall submit a reclamation plan to the
6 lead agency not later than March 31, 1988. If a reclamation plan
7 application is not on file by March 31, 1988, the continuation of
8 the surface mining operation is prohibited until a reclamation plan
9 is submitted to the lead agency. ~~For purposes of this subdivision,~~
10 ~~a reclamation plan may consist of all or the appropriate sections~~
11 ~~of any plans or written agreements previously approved by the~~
12 ~~lead agency or another agency, together with any additional~~
13 ~~documents needed to substantially meet the requirements of~~
14 ~~Sections 2772 and 2773 and the lead agency surface mining~~
15 ~~ordinance adopted pursuant to subdivision (a) of Section 2774,~~
16 ~~provided that all documents which together were proposed to serve~~
17 ~~as the reclamation plan are submitted for approval to the lead~~
18 ~~agency in accordance with this chapter.~~

19 (c) ~~If a person with an existing surface mining operation has~~
20 ~~received lead agency approval of its financial assurances for~~
21 ~~reclamation prior to January 1, 1991, the lead agency shall~~
22 ~~administratively review those existing financial assurances in~~
23 ~~accordance with subdivision (d) prior to January 1, 1992. The~~
24 ~~review of existing financial assurances shall not be considered a~~
25 ~~project for purposes of Division 13 (commencing with Section~~
26 ~~21000). A person with an existing surface mining operation that~~
27 ~~does not have financial assurances that received lead agency~~
28 ~~approval prior to January 1, 1991, shall submit financial assurances~~
29 ~~for reclamation for review in accordance with subdivision (d).~~

30 (d) ~~The lead agency's review of a reclamation plan submitted~~
31 ~~pursuant to subdivision (b) or of financial assurances pursuant to~~
32 ~~subdivision (c) is limited to whether the plan or the financial~~
33 ~~assurances substantially meet the applicable requirements of~~
34 ~~Sections 2772, 2773, and 2773.1, and the lead agency surface~~
35 ~~mining ordinance adopted pursuant to subdivision (a) of Section~~
36 ~~2774, but, in any event, the lead agency shall require that financial~~
37 ~~assurances for reclamation be sufficient to perform reclamation~~
38 ~~of lands remaining disturbed. Reclamation plans or financial~~
39 ~~assurances determined to substantially meet these requirements~~
40 ~~shall be approved by the lead agency for purposes of this chapter.~~

~~1 Reclamation plans or financial assurances determined not to
2 substantially meet these requirements shall be returned to the
3 operator within 60 days. The operator has 60 days to revise the
4 plan or financial assurances to address identified deficiencies, at
5 which time the revised plan or financial assurances shall be
6 returned to the lead agency for review and approval. Except as
7 specified in subdivision (e) or (i), unless the operator has filed on
8 or before July 1, 1990, an appeal pursuant to subdivision (e) with
9 regard to nonapproval of the reclamation plan, or has filed on or
10 before January 1, 1994, an appeal pursuant to subdivision (e) with
11 regard to nonapproval of financial assurances, and that appeal is
12 pending before the board, the continuation of the surface mining
13 operation is prohibited until a reclamation plan and financial
14 assurances for reclamation are approved by the lead agency.~~

~~15 (c) [Reserved]~~

~~16 (d) [Reserved]~~

~~17 (e) (1) A person who, who can substantiate, based on the
18 evidence of the record, can substantiate that a lead agency has
19 either (1) failed to act according to due process or has relied on
20 considerations not related to the specific applicable requirements
21 of Sections 2772, 2772.1, 2773, and 2773.1, 2773.3, and 2773.4
22 and the lead agency surface mining ordinance adopted pursuant
23 to subdivision (a) of Section 2774, 2774 in reaching a decision to
24 deny approval of a reclamation plan or financial assurances for
25 reclamation, or (2) failed to act within a reasonable time of receipt
26 of a completed application, or (3) failed to review and approve
27 reclamation plans or financial assurances as required by
28 subdivisions (e) and (d), application may appeal that action or
29 inaction to the board.~~

~~30 (2) The director may appeal a lead agency's approval of a
31 financial assurance cost estimate to the board if the director has
32 commented pursuant to Section 2773.4 that the financial assurance
33 cost estimate is inadequate based on consideration of the following:~~

~~34 (A) Section 2773.1.~~

~~35 (B) Article 11 (commencing with Section 3800) of Title 14 of
36 the California Code of Regulations.~~

~~37 (C) The board's financial assurance guidelines adopted
38 pursuant to subdivision (f) of Section 2773.1~~

~~39 (3) If the approved financial assurance cost estimate applies to
40 a reclamation plan approved for a new surface mining operation,~~

1 *an expanded surface mining operation, or an interim financial*
 2 *assurance due to an order to comply, stipulated or otherwise, the*
 3 *operator shall provide a financial assurance mechanism pursuant*
 4 *to subdivision (e) of Section 2773.4 in the amount of the approved*
 5 *financial assurance cost estimate, notwithstanding an appeal filed*
 6 *pursuant to this subdivision and subject to modification pending*
 7 *the outcome of the appeal.*

8 *(4) If the approved financial assurance cost estimate is an*
 9 *update to an existing approved financial assurance cost estimate,*
 10 *the existing financial assurance mechanism shall remain in place*
 11 *and shall not be adjusted until a final determination by the board*
 12 *on the appeal filed pursuant to this subdivision.*

13 *(f) (1) The board may decline to hear an appeal if it determines*
 14 *that the appeal raises no substantial issues related to the lead*
 15 *agency's review pursuant to this section. decision to deny approval*
 16 *of a reclamation plan or financial assurance or the timeliness in*
 17 *reviewing a completed application. An appeal filed by the director*
 18 *shall be heard by the board.*

19 ~~*(g) Appeals that the board does not decline to hear shall be*~~
 20 ~~*scheduled and heard at a public hearing within 45 days of the filing*~~
 21 ~~*of the appeal, or a longer period as may be mutually agreed upon*~~
 22 ~~*by the board and the person filing the appeal. In hearing an appeal,*~~
 23 ~~*the board shall only determine whether the reclamation plan or the*~~
 24 ~~*financial assurances substantially meet the applicable requirements*~~
 25 ~~*of Sections 2772, 2773, and 2773.1, and the lead agency surface*~~
 26 ~~*mining ordinance adopted pursuant to subdivision (a) of Section*~~
 27 ~~*2774. A reclamation plan or financial assurances determined to*~~
 28 ~~*meet these requirements shall be approved. A reclamation plan or*~~
 29 ~~*financial assurances determined not to meet these requirements*~~
 30 ~~*shall be returned to the person filing the appeal with a notice of*~~
 31 ~~*deficiencies, who shall be granted, once only, a period of 30 days,*~~
 32 ~~*or a longer period mutually agreed upon by the operator and the*~~
 33 ~~*board, to correct the noted deficiencies and submit the revised*~~
 34 ~~*reclamation plan or the revised financial assurances to the lead*~~
 35 ~~*agency for review and approval.*~~

36 *(2) If the board takes up an appeal, the appeal shall be*
 37 *scheduled and heard at a public hearing within 45 days of the*
 38 *filing of the appeal or a longer period may be mutually agreed*
 39 *upon by the board, the appellant, and the operator or the board,*
 40 *the director, and the operator.*

(g) (1) (A) When hearing an appeal filed pursuant to subdivision (e), the board shall determine whether the reclamation plan or the financial assurance cost estimate substantially meets the applicable requirements of Sections 2772, 2772.1, 2773, 2773.1, 2773.3, and 2773.4, and Article 1 (commencing with Section 3500), Article 9 (commencing with Section 3700), and Article 11 (commencing with Section 3800) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the lead agency's surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. The board shall approve or uphold a reclamation plan or financial assurance cost estimate determined to meet those applicable requirements. In any event, the total amount of financial assurances required for any one year shall not exceed the amount necessary to perform reclamation of lands remaining disturbed.

(B) For purposes of this subdivision, "substantially" means actual compliance in respect to the substance and form requirements essential to the objectives of this chapter.

(2) (A) A reclamation plan determined not to meet the applicable requirements of Sections 2772, 2772.1, 2773, 2773.1, 2773.3, and 2773.4 and the lead agency's surface mining ordinance adopted pursuant to subdivision (a) of Section 2774 shall be returned to the operator with a notice of deficiencies. The operator shall be granted, once only, a period of 30 days or a longer period mutually agreed upon by the operator and the board to do both of the following:

(i) Correct the noted deficiencies.

(ii) Submit the revised reclamation plan to the lead agency for review and approval.

(B) Within 10 days of the hearing, the board shall provide notice via certified mail to the lead agency, the operator, and the department of the board's determination. The notice shall include instructions to the operator to submit to the lead agency for approval a revised reclamation plan consistent with the board's determination.

(3) (A) If the board determines the lead agency's approved financial assurance cost estimate does not meet the requirements of Sections 2773.1 and 2773.4, and Article 11 (commencing with Section 3800) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations, and the board's financial

1 *assurance guidelines adopted pursuant to subdivision (f) of Section*
2 *2773.1, the board shall note the deficiencies and, based on the*
3 *record, include adequate cost estimates for each noted deficiency.*

4 *(B) Within 10 days of the hearing, the board shall provide notice*
5 *via certified mail to the lead agency, the operator, and the*
6 *department of the board's determination with instructions to the*
7 *operator to submit to the lead agency for approval a revised*
8 *financial assurance cost estimate consistent with the board's*
9 *determination. The instructions shall include a reasonable*
10 *submission deadline of not less than 30 days.*

11 *(C) The lead agency shall approve the revised financial*
12 *assurance cost estimate. That approval shall supersede and void*
13 *the prior approved financial assurance cost estimate.*

14 *(D) A financial assurance mechanism shall be established by*
15 *the operator pursuant to subdivision (e) of Section 2773.4 following*
16 *the approval of the financial assurance cost estimate.*

17 *(E) The failure of the operator to submit to the lead agency a*
18 *revised financial assurance cost estimate consistent with the*
19 *board's determination and deadline may be grounds for the*
20 *issuance of an order to comply pursuant to subdivision (a) of*
21 *Section 2774.1.*

22 *(h) (1) Within 90 days of a surface mining operation becoming*
23 *idle, as defined in Section 2727.1, the operator shall submit to the*
24 *lead agency for review and—approval, approval an interim*
25 *management plan. The review and approval of an interim*
26 *management plan shall not be considered a project for purposes*
27 *of—Division the California Environmental Quality Act (Division*
28 *13 (commencing with Section 21000) 21000)). The approved*
29 *interim management plan shall be considered an amendment to*
30 *the surface mining operation's approved reclamation—plan, plan*
31 *for purposes of this chapter. The interim management plan shall*
32 *provide measures the operator will implement to maintain the site*
33 *in compliance with this chapter, including, but not limited to, all*
34 *permit conditions.*

35 *(2) The—Except for an interim management plan for a borrow*
36 *pit surface mining operation owned or operated by the lead agency*
37 *solely for use by the lead agency, an interim management plan*
38 *may remain in effect for a period not to exceed five years, at which*
39 *time the lead agency shall do one of the following:*

1 (A) Renew the interim management plan for an additional period
2 not to exceed five years, which may be renewed for one additional
3 five-year renewal period at the expiration of the first five-year
4 renewal period, if the lead agency finds that the surface mining
5 operator has complied fully with the interim management plan.

6 (B) Require the ~~surface mining~~ operator to commence
7 reclamation in accordance with its approved reclamation plan.

8 (3) The financial assurances required by Section 2773.1 shall
9 remain in effect during the period that the surface mining operation
10 is idle. If the surface mining operation is still idle after the
11 expiration of its interim management plan, the ~~surface mining~~
12 ~~operation~~ operator shall commence reclamation in accordance
13 with its approved reclamation plan.

14 (4) Within 60 days of the receipt of the interim management
15 ~~plan~~, plan or a longer period mutually agreed upon by the lead
16 agency and the operator, the lead agency shall review and approve
17 the plan in accordance with its ordinance adopted pursuant to
18 subdivision (a) of Section 2774, so long as the plan satisfies the
19 requirements of this subdivision, and so notify the operator in
20 writing. Otherwise, the lead agency shall notify the operator in
21 writing of any deficiencies in the plan. The operator shall have 30
22 days, or a longer period mutually agreed upon by the operator and
23 the lead agency, to submit a revised plan.

24 (5) The lead agency shall approve or deny approval of the
25 revised interim management plan within 60 days of receipt. If the
26 lead agency denies approval of the revised interim management
27 plan, the operator may appeal that action to the lead agency's
28 governing body, which shall schedule a public hearing within 45
29 days of the filing of the ~~appeal~~, appeal or a longer period mutually
30 agreed upon by the operator and the governing body.

31 (6) Unless review of an interim management plan is pending
32 before the lead ~~agency~~, agency or an appeal is pending before the
33 lead agency's governing body, a surface mining operation that
34 remains idle for over one year after becoming ~~idle~~ idle, as defined
35 in Section ~~2727.1~~ 2727.1, without obtaining approval of an interim
36 management plan shall be considered abandoned and the operator
37 shall commence and complete reclamation in accordance with the
38 approved reclamation plan.

1 (7) *If a lead agency owns or operates a borrow pit surface*
2 *mining operation that is solely for use by the lead agency, then all*
3 *of the following apply:*

4 (A) *The borrow pit surface mining operation is exempt from the*
5 *requirements of this subdivision.*

6 (B) *The lead agency shall maintain financial assurances while*
7 *the borrow pit surface mining operation is idle.*

8 (C) *The lead agency may obtain an interim management plan*
9 *for the borrow pit surface mining to comply with subdivision (b)*
10 *of Section 2772. That interim management plan shall not expire.*

11 (i) *An enforcement action that may be brought against a surface*
12 *mining operation for operating without an approved reclamation*
13 *plan, financial assurance, or interim management plan shall be*
14 *held in abeyance pending review pursuant to subdivision (b), (c),*
15 *(d), or (h), or the resolution of an appeal filed with the board*
16 *pursuant to subdivision (e), or with a lead agency governing body*
17 *pursuant to subdivision (h).*

18 (j) *Notwithstanding paragraph (1) of subdivision (b) of Section*
19 *2774, a lead agency may inspect every two years a borrow pit*
20 *surface mining operation that is solely for use by the lead agency*
21 *while that surface mining operation is idle.*

22 SEC. 6. *Section 2772 of the Public Resources Code is amended*
23 *to read:*

24 2772. (a) *The reclamation plan shall be filed with the lead*
25 *agency, on a form provided by the lead agency, by any person who*
26 *owns, leases, or otherwise controls or operates on all, all or any*
27 *portion of any, any mined lands, lands and who plans to conduct*
28 *surface mining operations on the lands.*

29 (b) ~~All documentation for the reclamation plan shall be~~
30 ~~submitted~~ *In addition to the other requirements for a reclamation*
31 *plan set forth in this section, a reclamation plan for a borrow pit*
32 *surface mining operation owned or operated by the lead agency*
33 *to the department at one time, solely for use by the lead agency*
34 *shall include maintenance measures that become effective when*
35 *the borrow pit surface mining operation is idle.*

36 (c) *The reclamation plan shall include all of the following*
37 *information and documents:*

38 (1) *The name and address of the surface mining operator and*
39 *the names and addresses of any persons designated by the operator*
40 *as an agent for the service of process.*

1 (2) The anticipated quantity and type of minerals for which the
2 surface mining operation is to be conducted.

3 (3) The proposed dates for the initiation and termination of *the*
4 surface mining operation.

5 (4) The maximum anticipated depth of the surface mining
6 operation.

7 (5) *A reclamation plan map or maps that shall include all of*
8 *the following:*

9 ~~(5) The size~~

10 (A) ~~Size and legal description of the lands that will be affected~~
11 ~~by the surface mining operation, a map that includes the boundaries~~
12 ~~and topographic details of the lands, a description of the general~~
13 ~~geology of the area, a detailed description of the geology of the~~
14 ~~area in which surface mining is to be conducted, the location of~~
15 ~~all streams, roads, railroads, and utility facilities within, or adjacent~~
16 ~~to, the lands, the location of all proposed access roads to be~~
17 ~~constructed in conducting the surface mining operation, operation~~
18 ~~and the names and addresses of the owners of all surface interests~~
19 ~~and mineral interests in the lands.~~

20 (B) *Clearly defined and accurately drawn property lines,*
21 *setbacks, easements, and the reclamation plan boundary.*

22 (C) *Existing topography and final topography depicted with*
23 *contour lines drawn at appropriate intervals for the site's*
24 *conditions.*

25 (D) *Detailed geologic description of the area of the surface*
26 *mining operation.*

27 (E) *Location of railroads, utility facilities, access roads,*
28 *temporary roads to be reclaimed, and any roads remaining for*
29 *the approved end use.*

30 (F) *All maps, diagrams, or calculations that require preparation*
31 *in accordance with the Professional Engineers Act (Chapter 7*
32 *commencing with Section 6700) of Division 3 of the Business and*
33 *Professions Code), the Geologist and Geophysicist Act (Chapter*
34 *12.5 (commencing with Section 7800) of Division 3 of the Business*
35 *and Professions Code), or the Professional Land Surveyors' Act*
36 *(Chapter 15 (commencing with Section 8700) of Division 3 of the*
37 *Business and Professions Code) shall be prepared by an*
38 *appropriately licensed California-licensed professional, shall*
39 *include his or her license number and name, and shall bear the*
40 *signature and seal of the licensee.*

1 (6) A description ~~of, of~~ and a plan ~~for, for~~ the type of surface
2 mining to be ~~employed, employed~~ and a time schedule that will
3 provide for the completion of surface mining on each segment of
4 the mined lands so that reclamation can be initiated at the earliest
5 possible time on those portions of the mined lands that will not be
6 subject to further disturbance by the surface mining operation.

7 (7) A description of the proposed use or potential uses of the
8 mined lands after reclamation and evidence that all owners of a
9 possessory interest in the land have been notified of the proposed
10 use or potential uses.

11 (8) A description of the manner in which reclamation, adequate
12 for the proposed use or potential ~~uses~~ *uses*, will be accomplished,
13 including both of the following:

14 (A) A description of the manner in which *known* contaminants
15 will be ~~controlled, controlled~~ and mining waste will be disposed.

16 (B) A description of the manner in which affected streambed
17 channels and streambanks will be rehabilitated to a condition
18 ~~minimizing that minimizes erosion and sedimentation will occur.~~
19 *sedimentation.*

20 (9) An assessment of the effect of implementation of the
21 reclamation plan on future mining in the area.

22 (10) A statement that the person submitting the reclamation
23 plan accepts responsibility for reclaiming the mined lands in
24 accordance with the reclamation plan.

25 (11) Any other information ~~which~~ *that* the lead agency may
26 require by ordinance.

27 (12) *A chart identifying the page number, chapter, appendix,*
28 *or other specific location in the reclamation plan where content*
29 *meeting the requirements, as applicable, of Sections 2772, 2773,*
30 *and 2773.3 and Article 1 (commencing with Section 3500) and*
31 *Article 9 (commencing with Section 3700) of Chapter 8 of Division*
32 *2 of Title 14 of the California Code of Regulations is located.*

33 (d) An item of information or a document required pursuant to
34 subdivision ~~(e)~~ (c), that has already been prepared as part of a
35 permit application for the surface mining operation, or as part of
36 an environmental document prepared for the project pursuant to
37 ~~Division the California Environmental Quality Act (Division 13~~
38 ~~(commencing with Section 21000), 21000))~~ may be included in
39 the reclamation plan by reference, if that item of information or
40 that document is attached to the reclamation plan when the lead

1 agency submits the reclamation plan to the director for review. To
2 the extent that the information or document information, document,
3 or component of a document referenced in the reclamation plan is
4 used to meet the requirements of subdivision (e), the information
5 or (c) or Section 2773 or 2773.3, the information, document, or
6 component of a document shall become part of the reclamation
7 plan and shall be subject to all other requirements of this article.

8 (e) ~~Nothing in this~~ This section is intended to does not limit or
9 expand the department's Supervisor of Mines and Reclamation's
10 authority or responsibility to review a document in accordance
11 with Division the California Environmental Quality Act (Division
12 13 (commencing with Section 21000) 21000)).

13 SEC. 7. Section 2773.1.5 is added to the Public Resources
14 Code, to read:

15 2773.1.5. (a) Notwithstanding subdivision (e) of Section
16 2773.1, a financial assurance mechanism may include corporate
17 financial tests combined with surety bonds, irrevocable letters of
18 credit, or trust funds, as described in this section, that together
19 ensure the completion of reclamation in accordance with the
20 approved reclamation plan.

21 (b) (1) Corporate financial tests shall only be allowed after
22 the board adopts a regulation that establishes a comprehensive
23 analysis and test of a corporation's financial status that includes,
24 but is not limited to, all of the following:

25 (A) A minimum financial net worth of at least thirty-five million
26 dollars (\$35,000,000), adjusted annually to reflect changes in the
27 Consumer Price Index, as calculated by the United States Bureau
28 of Labor Statistics.

29 (B) Income.

30 (C) Liabilities, including other environmental assurances.

31 (D) Assets located within the United States.

32 (2) The regulation also shall include, but need not be limited
33 to, all of the following:

34 (A) Additional measures to provide the lead agency or the
35 director with the recovery of costs associated with the full
36 collection and satisfaction of the financial assurance mechanisms.

37 (B) Requirements for corporate financial tests that include, but
38 are not limited to, all of the following:

39 (i) Provide for no more than 75 percent of the financial
40 assurance cost estimate approved within the last year.

1 (ii) *Be annually approved by both the lead agency and the*
2 *director.*

3 (iii) *Be able to be disallowed by either the lead agency or the*
4 *director.*

5 (iv) *Include an assessment from an independent certified public*
6 *accountant using generally accepted accounting principles in the*
7 *United States.*

8 (c) *Each surface mining operation shall have at least 25 percent*
9 *of the financial assurance cost estimate in an acceptable financial*
10 *assurance mechanism other than a corporate financial test if a*
11 *qualifying corporation operates multiple surface mining*
12 *operations.*

13 (d) *Subject to the requirements of this subdivision, an operator*
14 *of multiple surface mining operations may use a corporate*
15 *financial test that combines the financial assurance cost estimates*
16 *of each surface mining operation.*

17 SEC. 8. *Section 2774 of the Public Resources Code is amended*
18 *to read:*

19 2774. (a) Every lead agency shall adopt ordinances in
20 accordance with state policy that establish procedures for the
21 review and approval of reclamation plans and financial assurances
22 and the issuance of a permit to conduct surface mining operations,
23 except that any lead agency without an active surface mining
24 operation in its jurisdiction may defer adopting an implementing
25 ordinance until the filing of a permit application. The ordinances
26 shall establish procedures requiring at least one public hearing and
27 shall be periodically reviewed by the lead agency and revised, as
28 necessary, to ensure that the ordinances continue to be in
29 accordance with state policy.

30 (b) (1) ~~The lead agency shall conduct an inspection of a cause~~
31 ~~surface mining operation within six months of receipt by the lead~~
32 ~~agency of the surface mining operation's report submitted pursuant~~
33 ~~to Section 2207, operations to be inspected in intervals of no more~~
34 ~~than 12 months, solely to determine whether the surface mining~~
35 ~~operation is in compliance with this chapter. In no event shall a~~
36 ~~lead agency inspect a surface mining operation less than once in~~
37 ~~any calendar year. The lead agency may shall cause an inspection~~
38 ~~to be conducted by a state-licensed state-licensed geologist, state~~
39 ~~licensed state-licensed civil engineer, state-licensed state-licensed~~
40 ~~landscape architect, or state-licensed state-licensed forester, who~~

1 ~~is experienced in land reclamation and~~ *or a qualified lead agency*
2 *employee who has not been employed by a the surface mining*
3 *operation within the jurisdiction of the lead agency being inspected*
4 *in any capacity during the previous 12 months. months, except that*
5 *a qualified lead agency employee may inspect surface mining*
6 *operations conducted by the local agency. All inspections shall*
7 *be conducted using a form developed by the department and*
8 *approved by the board that*~~shall include~~ *includes the professional*
9 *licensing and disciplinary information of the person who conducted*
10 *the inspection. The operator shall be solely responsible for the*
11 *reasonable cost of the inspection. The lead agency shall notify*
12 *provide a notice of completion of inspection to the director within*
13 *30 90 days of the date of completion of conducting the inspection*
14 ~~*that the inspection has been conducted.*~~ *inspection. The notice shall*
15 *contain a statement regarding the surface mining operation's*
16 *compliance with this chapter, shall include chapter and a copy of*
17 *the completed inspection form, and shall specify which aspects of*
18 ~~*the surface mining operations, if any, are inconsistent with this*~~
19 ~~*chapter. If specify, as applicable, all of the following:*~~
20 *(A) Aspects of the surface mining operation, if any, that were*
21 *found to be inconsistent with this chapter but were corrected before*
22 *the submission of the inspection form to the director.*
23 *(B) Aspects of the surface mining operation, if any, that were*
24 *found to be inconsistent with this chapter but were not corrected*
25 *before the submission of the inspection form to the director.*
26 *(C) A statement describing the lead agency's intended response*
27 *to any aspects of the surface mining operation found to be*
28 *inconsistent with this chapter but were not corrected before the*
29 *submission of the inspection form to the director.*
30 *(2) If the surface mining operation has a review of its*
31 *reclamation plan, financial assurances, or an interim management*
32 *plan pending under subdivision (b), (c), (d), or (h) of Section 2770,*
33 *or an appeal pending before the board or lead agency governing*
34 *body under subdivision (e) or (h) of Section 2770, the notice shall*
35 *so indicate. The lead agency shall forward to the operator a copy*
36 *of the notice, a copy of the completed inspection form, and any*
37 *supporting documentation, including, but not limited to, any*
38 *inspection report prepared by the geologist, civil engineer,*
39 ~~*landscape architect, or forester,*~~ *forester, or qualified lead agency*
40 *employee who conducted the inspection.*

1 ~~(e) Before approving a surface mining operation's reclamation~~
2 ~~plan, financial assurances, including existing financial assurances~~
3 ~~reviewed by the lead agency pursuant to subdivision (c) of Section~~
4 ~~2770, or any amendments, the lead agency shall submit the plan,~~
5 ~~assurances, or amendments to the director for review. All~~
6 ~~documentation for that submission shall be submitted to the director~~
7 ~~at one time. When the lead agency submits a reclamation plan or~~
8 ~~plan amendments to the director for review, the lead agency shall~~
9 ~~also submit to the director, for use in reviewing the reclamation~~
10 ~~plan or plan amendments, information from any related document~~
11 ~~prepared, adopted, or certified pursuant to Division 13~~
12 ~~(commencing with Section 21000), and shall submit any other~~
13 ~~pertinent information. The lead agency shall certify to the director~~
14 ~~that the reclamation plan is in compliance with the applicable~~
15 ~~requirements of this chapter and Article 1 (commencing with~~
16 ~~Section 3500) of Chapter 8 of Division 2 of Title 14 of the~~
17 ~~California Code of Regulations and the lead agency's mining~~
18 ~~ordinance in effect at the time that the reclamation plan is submitted~~
19 ~~to the director for review.~~

20 ~~(d) (1) The director shall have 30 days from the date of receipt~~
21 ~~of a reclamation plan or plan amendments submitted pursuant to~~
22 ~~subdivision (c), and 45 days from the date of receipt of financial~~
23 ~~assurances submitted pursuant to subdivision (c), to prepare written~~
24 ~~comments, if the director so chooses. The lead agency shall~~
25 ~~evaluate written comments received from the director relating to~~
26 ~~the reclamation plan, plan amendments, or financial assurances~~
27 ~~within a reasonable amount of time.~~

28 ~~(2) The lead agency shall prepare a written response to the~~
29 ~~director's comments describing the disposition of the major issues~~
30 ~~raised by the director's comments, and submit the lead agency's~~
31 ~~proposed response to the director at least 30 days prior to approval~~
32 ~~of the reclamation plan, plan amendment, or financial assurance.~~
33 ~~The lead agency's response to the director's comments shall~~
34 ~~describe whether the lead agency proposes to adopt the director's~~
35 ~~comments to the reclamation plan, plan amendment, or financial~~
36 ~~assurance. If the lead agency does not propose to adopt the~~
37 ~~director's comments, the lead agency shall specify, in detail, why~~
38 ~~the lead agency proposes not to adopt the comments. Copies of~~
39 ~~any written comments received and responses prepared by the lead~~
40 ~~agency shall be forwarded to the operator. The lead agency shall~~

~~1 also give the director at least 30 days' notice of the time, place,
2 and date of the hearing before the lead agency at which time the
3 reclamation plan, plan amendment, or financial assurance is
4 scheduled to be approved by the lead agency. If no hearing is
5 required by this chapter, or by the local ordinance, or other state
6 law, then the lead agency shall provide 30 days' notice to the
7 director that it intends to approve the reclamation plan, plan
8 amendment, or financial assurance. The lead agency shall send to
9 the director its final response to the director's comments within
10 30 days following its approval of the reclamation plan, plan
11 amendment, or financial assurance during which period the
12 department retains all powers, duties, and authorities of this
13 chapter.~~

~~14 (3) To the extent that there is a conflict between the comments
15 of a trustee agency or a responsible agency that are based on the
16 agency's statutory or regulatory authority and the comments of
17 other commenting agencies which are received by the lead agency
18 pursuant to Division 13 (commencing with Section 21000)
19 regarding a reclamation plan or plan amendments, the lead agency
20 shall consider only the comments of the trustee agency or
21 responsible agency.~~

~~22 (e) A lead agency shall notify the director of the filing of an
23 application for a permit to conduct surface mining operations
24 within 30 days of an application being filed with the lead agency.
25 By July 1, 1991, each lead agency shall submit to the director for
26 every active or idle mining operation within its jurisdiction, a copy
27 of the mining permit required pursuant to Section 2774, and any
28 conditions or amendments to those permits. By July 1 of each
29 subsequent year, the lead agency shall submit to the director for
30 each active or idle mining operation a copy of any permit or
31 reclamation plan amendments, as applicable, or a statement that
32 there have been no changes during the previous year. Failure to
33 file with the director the information required under this section
34 shall be cause for action under Section 2774.4.~~

~~35 (c) If an operator does not request an inspection date on the
36 annual report filed pursuant to Section 2207 or if the lead agency
37 is unable to cause the inspection of a given surface mining
38 operation on the date requested by the operator, the lead agency
39 shall provide the operator with a minimum of five days' written~~

1 notice of a pending inspection or a lesser time period if agreed to
2 by the operator.

3 (d) No later than July 1 of each year, the lead agency shall
4 submit to the director for each active or idle surface mining
5 operation within the lead agency's jurisdiction the following
6 information:

7 (1) A copy of any permit or reclamation plan amendments, as
8 applicable.

9 (2) A statement that there have been no changes during the
10 previous year, as applicable.

11 (3) The date of each surface mining operation's last inspection.

12 (4) The date of each surface mining operation's last financial
13 assurance review pursuant to Section 2773.1 for each operation
14 listed.

15 (e) (1) No later than December 31, 2016, the department shall
16 establish a training program for all surface mine inspectors. The
17 program shall be designed to include a guidance document,
18 developed by the department, in consultation with the board and
19 stakeholders, to provide instruction and recommendations to
20 surface mine inspectors performing inspections pursuant to
21 subdivision (b).

22 (2) The training program shall include inspections workshops
23 offered by the department in different regions of the state to provide
24 practical application of the guidance document material.

25 (3) On and after July 1, 2019, all inspectors shall have on file
26 with the lead agency and the department a certificate of completion
27 of an inspection workshop. An inspector shall attend a workshop
28 no later than five years after the date of his or her most recent
29 certificate.

30 (4) The adoption of the guidance document by the department
31 pursuant to this subdivision shall be subject to the requirements
32 of the Administrative Procedure Act (Chapter 3.5 (commencing
33 with Section 11340) of Part 1 of Division 3 of Title 2 of the
34 Government Code).

35 ~~SEC. 16.~~

36 SEC. 9. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 a local agency or school district has the authority to levy service
39 charges, fees, or assessments sufficient to pay for the program or

1 level of service mandated by this act, within the meaning of Section
2 17556 of the Government Code.

3 ~~SEC. 17.~~

4 *SEC. 10.* This act shall become operative only if both this bill
5 and Assembly Bill 1142 of the 2015–16 Regular Session are
6 enacted and become ~~operative~~. *operative on or before January 1,*
7 *2016.*

O